

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on June 04, 2004. Claims 1-35 are presented for examination. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simons et al. (US 6,332,198) hereinafter Simons, in view of Zadikian et al. (US 6,724,757) hereinafter Zadikian.

Applicant has carefully noted and reviewed the rejections, references and the Examiner's comments and herein provides arguments to more particularly point the subject matter regarded as inventive, distinguishing unarguably over the reference of Simons and Zadikian.

Applicant, in the prior response filed, argued that a 50-millisecond switchover simply is not possible in the art of Simons even when Standard APS protocol is known in the art.

Applicant believes that because information and communication needed to facilitate APS is not stored locally in Simons, as in applicant's invention, the 50 millisecond time frame could not be consistently accomplished. In applicant's invention all pertinent information is transmitted between APS modules making the information exchange required for APS occur faster. Applicant argues that the art of Simons should be withdrawn because it is not an analogous art of APS systems.

The Examiner relies on the art of Zadikian to teach a 50 millisecond switchover. Applicant argues that Zadikian's system teaches routing signals on optical cables. The system of Zadikian does not teach an analogous system to applicant's invention, therefore, the ability to accomplish a 50 millisecond switchover does not carry more weight than what was generally known in the art as explained in the background portion of applicant's specification. Again, as argued regarding the art of Simons, Zadikian facilitates switch over from a main

processor, the software intelligence is not stored locally as in applicant's invention.

Applicant believes that because information and communication needed to facilitate APS is not stored locally in Simons, as in applicant's invention, the 50 millisecond time frame could not be consistently accomplished. The combination with Zadikian is not obvious because 50 millisecond switchover is not possible in Simons because of hardware/software limitations. Zadikian teaches a signaling routing system not analogous with a data packet network on the Internet.

Applicant is aware that 50 millisecond switchover exists in the art. Applicant's contribution to the art is the distributed intelligence of the processors. Applicant points out to the Examiner that in order to support the conclusion that the claimed invention is directed to obvious subject matter, Both the suggestion to make the claimed combination and the reasonable expectation of success must be founded in the prior art and not in applicant's disclosure.

Applicant argues that the concept of providing an APS interface relocation from a primary interface to a backup interface as claimed, within a 50 millisecond time window required by APS protocol, is only founded in applicant's disclosure and not in Simons or Zadikian. The combination of Simons and Zadikian could not accomplish an APS with a 50 millisecond switchover as argued above.

Applicant believes that claims 1, 12 and 24 are patentable over the art of Simon and Zadikian. Claims 2-11, 13-23, and 25-35 are patentable on their own merits, or at least as depended from a patentable claim.


As all of the claims left standing are clearly shown to be patentable over the prior art, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

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Respectfully Submitted,

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by 

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